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Majid Syed

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EXAMINER

STRANGE, AARON N

ART UNIT

PAPER NUMBER

2153

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DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/032,951	Applicant(s) SYED, MAJID	
	Examiner AARON STRANGE	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20080725</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-10 and 12-66 have been considered but are moot in view of the new ground(s) of rejection. While the cited references remain the same, the combination has been modified in response to the newly presented claim amendments.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-17 and 19-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corts et al. US 2002/0095228) in view of Perlman et al. (US 5,978,381) further in view of Getsin et al. (US 6,529,949).

4. With regard to claim 1, Corts discloses a system comprising:
a digital radio broadcast system comprising one or more gateways, said one or more gateways receiving one or more selections of digital data content (gateways receives content selected by the providers) and processing said digital data content for

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digital radio broadcast transmission (content is collected and processed for delivery via digital broadcast transmission)(¶2 & ¶30), Said one or more gateways comprising:

a scheduler for receiving said data content and scheduling the data content to be broadcast via digital radio broadcast transmission (data broadcasts can be scheduled)(¶48-55);

said gateway processing said first data type and said second data type for digital radio broadcast transmission to client devices without any communication from a user requesting said data content (content is selected by broadcasters and sent to users without any user request for the content)(¶21-30).

Corts fails to specifically disclose that the scheduler separates the data content into first and second data types for broadcast during first and second broadcast periods or using a deactivate flag to cause the first data type to be stored, but not activated, until it is subsequently recombined with the second data type for use during a scheduled time period.

Perlman discloses a similar system for providing content to clients via a network (Abstract). Perlman teaches a for scheduler receiving data content and separating the data content into a first and second types (data streams and updates are transmitted separately)(col. 10, ll. col. 13, ll. 45-55);

scheduling broadcast of the first type of data content to the client device during selective first broadcast period (most content is transmitted during off-peak times)(col.10 lines 47-55);

scheduling broadcast of said second type of data content to the client during a second broadcast time period (update data is transmitted during peak times)(col.13 lines 45-55);

recombining the first and second content at the client device (inherent to form the complete content).

This would have been an advantageous addition to the system disclosed by Corts since it would have allowed bulk data content to be sent during off-peak times and real-time updates to the content to be sent during peak times, provided up-to-date content with minimal usage of the network during peak times.

Getsin also discloses a similar system for distributing content and content updates to a plurality of users (Abstract). Getsin teaches delivering a first type of content (event is stored in memory on a client)(col. 11, ll. 65-66), but preventing the user from accessing the content until after supplemental information is received and a scheduled time has arrived (col. 12, ll. 35-42). Getsin further discloses that the enabling and disabling of the content occurs without user instructions (information including the start time is received from the host computer)(col. 12, ll. 35-42). This would have been an advantageous addition to the system disclosed by Corts and Perlman since it would have allowed the content provider to control when content could be played back by the user, allowing the content provider to supplement or modify the presented content and/or limit access to portions of the content as desired (Getsin; col. 3, ll. 52-55).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to separate the data content into two data types and permit the

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content provider to remotely control a clients access to content, since it would have given content providers the ability to supplement or modify content previously supplied to users via a radio broadcast network.

5. As per claim 2, Perlman teaches the first content requires high bandwidth (col.2 lines 50-55) and the second content requires relatively lower bandwidth (col.13 lines 50-55, it is apparent that updates data would requires lower bandwidth than the entire content).

6. As per claim 3, Pearlman teaches activating includes receiving an enable flag at the client (col.13 lines 14-24 when payment is made).

7. As per claim 5, Perlman teaches the first data content comprises: images and graphic [col.11 lines 10-13], song [audio], and digital data purchase [col.13 lines 14-24 - pay content].

8. As per claim 6, Perlman teaches the second data content comprises: accompanying text, fixed data [col.13 lines 50-55 updates] and data to complete the first content [col.11 line 34 retransmission].

9. As per claim 7, Perlman teaches the first content is broadcast during low usage period (col.2 lines 50-55 -off peak hour).

10. As per claim 8, Perlman teaches the second content is received during client usage period (col.13 lines 45-55).

11. As per claim 9, Perlman teaches the first content is broadcast during low usage period (col.2 lines 50-55 -off peak hour) and the second content is received during client usage period (col.13 lines 45-55).

12. As per claim 10, Perlman teaches the first content is broadcast before the second content (apparent from col.13 lines 45-55).

13. As per claims 11-13, Perlman teaches the content is broadcast with deactivate flag so that it is stored but not immediate use (col.13 lines 14-24 - Condition viewing restriction until fee is paid. It is apparent that an activation flag would be send after the client pay to activate the content for viewing.)

14. As per claim 14-15, Pearlman does not specifically disclose the client device being a digital radio, handheld devices, etc. The type of client device used would have been a matter of choice and would have been an obvious variation from the teaching of Pearlman. It would have been obvious to apply Pearlman teaching as modified to portable client device such as digital radio, handheld devices, wireless telephone, etc. because it would have enable the user to have access to high bandwidth content on the go.

15. As per claim 16, Pearlman teaches the data originated from Internet and web site (col.9 lines 49-68), advertiser and ISP (col.8 lines 45-65).

16. Claims 17 and 19-31 are rejected under the same rationale as claims 1-3 and 5-16, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art. It is apparent that Pearlman would have had an activation message to the client device (col.13 lines 14-25 - after a client pays a fee to view the content).

17. Claim 32 is rejected under the same rationale as claim 1, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art.

18. As per claim 33, Perlman teaches the first content requires high bandwidth (col.2 lines 50-55) and the second content requires relatively lower bandwidth (col.13 lines 50-55, it is apparent that updates data would requires lower bandwidth than the entire content).

19. As per claim 34, Perlman teaches the first data content comprises: images and graphic [col.11 lines 10-13], song [audio], and digital data purchase [col.13 lines 14-24 - pay content].

20. As per claim 35, Perlman teaches the second data content comprises: accompanying text, fixed data [col.13 lines 50-55 updates] and data to complete the first content [col.11 line 34 retransmission].
21. As per claim 36, Perlman teaches the first content is received during low usage period (col.2 lines 50-55 -off peak hour).
22. As per claim 37, Perlman teaches the second content is received during client usage period (col.13 lines 45-55).
23. As per claim 38, Perlman teaches the first content is received during low usage period (col.2 lines 50-55 -off peak hour) and the second content is received during client usage period (col.13 lines 45-55).
24. As per claim 39, Perlman teaches the first content is received before the second content (apparent from col.13 lines 45-55).
25. As per claims 40-41, Perlman teaches the content is stored with non-enable flag so that it is stored but not immediate use (col.13 lines 14-24 - Condition viewing restriction until fee is paid).

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26. As per claim 42, Pearlman teaches activating includes receiving an enable flag at the client (col.13 lines 14-24 when payment is made).

27. As per claims 43-44, Perlman does not specifically disclose the client device being a digital radio, handheld devices, etc. The type of client device used would have been a matter of choice and would have been an obvious variation from the teaching of Pearlman. It would have been obvious to apply Pearlman teaching as modified to portable client device such as digital radio, handheld devices, wireless telephone, etc. because it would have enable the user to have access to high bandwidth content on the go.

28. As per claim 45, Perlman teaches the data originated from Internet and web site (col.9 lines 49-68), advertiser and ISP (col.8 lines 45-65).

29. Claim 46 is rejected under the same rationale as claim 17, since they recite substantially identical subject matter. Any differences between the claims do not result in patentably distinct claims and all of the limitations are taught by the above cited art. Perlman discloses that all communications processed at said one or more client devices relating to said data content are push-type communications received by one or more client devices (scheduled multicast transmissions are push-type communications received by the clients).

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30. With regard to claims 51-58, Corts further discloses that the data comprises traffic update information (§213).

31. Claims 47-50 are rejected under similar rationales as applied to the other independent claims above.

32. Claims 4 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corts et al. US 2002/0095228) in view of Perlman et al. (US 5,978,381) further in view of Getsin et al. (US 6,529,949) further in view of Sampath et al. (US 6,266,774).

33. As per claims 4 and 18, Perlman does not teach providing a time-to-live value the specifies a time interval that upon expiration, the client device deleting at least a part of the recombined data. Perlman teaches providing content on a trial basis (col.13 lines 20-23). It is well known in the art to have expiration time period on trial content (see Sampath col.1 lines 30-50). Manually removing expired content is a chore on the user (Sampath col.1 lines 30-50). Hence, it would have been obvious for one of ordinary skill in the art to cause the client device to delete content that is not activated after a time-to-live period because it would have permitted the system to automatically clean up and reduces wasted storage space on the client device.

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34. Claims 59-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Corts et al. US 2002/0095228) in view of Perlman et al. (US 5,978,381) further in view of Getsin et al. (US 6,529,949) further in view of Official Notice.

35. With regard to claims 59-66, while the system disclosed by Corts, Perlman and Getsin shows substantial features of the claimed invention (discussed above), it fails to specifically disclose using an identifier to target content to a particular client device.

The Examiner takes Official Notice that it was old and well known in the art at the time the invention was made to use an identifier to target content to a particular device on a network. In order for a client to know that particular content is intended for the client, the content must contain some type of identifier of the client to which the targeted content is directed. This would have been an advantageous addition to the system disclosed by Corts, Perlman and Getsin since it would have allowed content to be targeted to an individual device without requiring the other devices to process the content.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use an identifier to target content to particular devices to provide more personalized content to users of the system.

Conclusion

36. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

37. Any inquiry concerning this communication or earlier communications from the examiner should be directed to AARON STRANGE whose telephone number is (571)272-3959. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on 571-272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Glenton B. Burgess/
Supervisory Patent Examiner, Art Unit 2153

/A. S./
Examiner, Art Unit 2153